# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**RAY TAYLOR** 

APPELLANT,

v. LABOR PROS L.L.C.

RESPONDENT.

### **DOCKET NUMBER WD75174**

DATE: January 8, 2013

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

Attorneys:

David H. Bony, Kansas City, MO, for appellant.

Steven J. Quinn, Kansas City, MO, for respondent.

#### MISSOURI APPELLATE COURT OPINION SUMMARY

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RAY TAYLOR,

APPELLANT,

v. LABOR PROS L.L.C.,

RESPONDENT.

No. WD75174

Labor and Industrial Relations Commission

Before Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

Ray Taylor was working for Labor Pros when he received an injury to his eye. Taylor filed a claim in which he alleged a seventy-five percent permanent partial disability to his left eye. Labor Pros failed to timely answer his claim. Taylor asserted that the seventy-five percent disability allegation was deemed admitted when Labor Pros failed to timely answer, pursuant to 8 CSR 50-2.010(8)(B). Labor Pros presented medical evidence at trial that Taylor suffered only a thirty percent disability to his left eye. Taylor presented no medical evidence to the Commission to support his seventy-five percent disability percentage allegation. The Commission awarded Taylor a thirty percent permanent partial disability to his left eye. Taylor appeals.

#### AFFIRMED.

**Division One holds:** The Commission did not err when it determined that Taylor suffered from a thirty percent disability because the determination of a disability percentage rating is within the special province of the Commission, and the regulation did not intend for a disability percentage to be deemed admitted since the percentage of disability is not requested on the required Claim for Compensation form to which the regulation refers. Because the Commission deemed admitted only the fact of the accident and its role in causing Taylor's eye injury, it did not exceed its authority and we find no error.

Opinion by Gary D. Witt, Judge

January 8, 2013

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